

(2) A delinquency created through reversal and reapplication of payments to effect corrections outlined in paragraph (b)(1) of this section will be serviced according to the applicable servicing regulations for the type loan involved.

[50 FR 45777, Nov. 1, 1985, as amended at 55 FR 35295, Aug. 29, 1990]

#### § 1951.569 Exception authority.

The Administrator may in individual cases make an exception to any requirement or provision of this subpart which is not inconsistent with the authorizing statute or other applicable law if the Administrator determines that application of the requirement or provision would adversely effect the Government's interest. The Administrator will exercise this authority only at the request of the State Director and on the recommendation of the appropriate Program Assistant Administrator. Requests for exceptions must be made in writing by the State Director and supported with documentation to explain the adverse effect on the Government's interest, propose alternative courses of action, and show how the adverse effect will be eliminated or minimized if the exception is granted.

#### §§ 1951.570–1951.599 [Reserved]

#### § 1951.600 OMB control number.

The collection of information requirements in this regulation have been approved by the Office of Management and Budget and assigned OMB control number 0575–0102.

### Subpart M [Reserved]

### Subpart N—Servicing Cases Where Unauthorized Loan or Other Financial Assistance Was Received—Multiple Family Housing

SOURCE: 50 FR 12996, Apr. 2, 1985, unless otherwise noted.

#### § 1951.651 Purpose.

This subpart prescribes the policies and procedures for servicing multiple family housing (MFH) loans and/or grants made by Farmers Home Admin-

istration or its successor agency under Public Law 103–354 (FmHA or its successor agency under Public Law 103–354) when it is determined that the borrower or grantee was not eligible for all or part of the financial assistance received in the form of a loan, grant, subsidy granted, any other direct financial assistance, or was not made subject to restrictive-use provisions required by law and/or regulation. As used in this subpart, MFH loans and grants are section 515 rural rental housing (RRH) and rural cooperative housing (RCH) loans and sections 514 and 516 labor housing (LH) loans and grants.

[58 FR 38926, July 21, 1993]

#### § 1951.652 Definitions.

As used in this subpart, the following definitions apply:

(a) *Active borrower.* A borrower who has an outstanding account in the records of the Finance Office, including collection-only or an unsatisfied account balance where a voluntary conveyance was accepted without release from liability or foreclosure did not satisfy the indebtedness.

(b) *Assistance.* Financial assistance in the form of a loan, grant, or subsidy received.

(c) *Debt instrument.* Used as a collective term to include promissory note, assumption agreement, grant agreement/resolution, or bond.

(d) *False information.* Information, known to be incorrect, provided with the intent to obtain benefits which would not have been obtainable based on correct information.

(e) *Inaccurate information.* Incorrect information provided inadvertently without intent to obtain benefits fraudulently.

(f) *Inactive borrower.* A former borrower whose loan(s) has(have) been paid in full or assumed by another party(ies) and who does not have an outstanding account in the records of the Finance Office.

(g) *Recipient.* “Recipient” refers to an individual or entity that received a loan, or portion of a loan, an interest subsidy, or a grant which was unauthorized or was not made subject to restrictive-use provisions required by law and/or regulation.

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(h) *Unauthorized assistance.* Any loan, interest subsidy, or grant, or any portion thereof, received by a borrower or grantee for which there was no regulatory authorization, or for which the recipient was not eligible.

Interest subsidy includes interest credits, rental assistance, and subsidy benefits received because a loan was made at a lower interest rate than that to which the recipient was entitled, whether the incorrect interest rate was selected erroneously by the approval official, or the documents were prepared in error.

[50 FR 12996, Apr. 2, 1985, as amended at 58 FR 38926, July 21, 1993]

## § 1951.653 Policy.

When unauthorized assistance has been received, an effort must be made to collect the sum which is determined to be unauthorized from the recipient, regardless of amount, unless any applicable statute of limitations has expired.

[58 FR 38926, July 21, 1993]

## § 1951.654 Categories of unauthorized assistance.

Unauthorized assistance includes, but is not limited to, these categories:

(a) The recipient was not eligible for the assistance.

(b) The property, as approved, does not qualify for the program. For example: An RRH or LH project which clearly is above modest in size, design and/or cost or was not located in an area designated as rural when the initial loan was made.

(c) The loan or grant was made for unauthorized purposes. For example: Purchase of an excessive amount of land.

(d) The recipient was granted unauthorized subsidy in the form of:

(1) Interest credits (IC) on an RRH loan;

(2) Rental Assistance (RA) in connection with an RRH or LH loan; or

(3) A subsidy benefit received through use of an incorrect interest rate.

(e) The recipient was not subjected to obligations required by the assistance,

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such as restrictive-use provisions, at the time the assistance was provided.

[50 FR 12996, Apr. 2, 1985, as amended at 58 FR 38926, July 21, 1993]

## § 1951.655 [Reserved]

## § 1951.656 Initial determination that unauthorized assistance was received.

Unauthorized assistance may be identified through audits conducted by the Office of the Inspector General, USDA, (OIG); through reviews made by FmHA or its successor agency under Public Law 103-354 personnel; or through other means such as information provided by a private citizen which documents that unauthorized assistance has been received by a recipient of FmHA or its successor agency under Public Law 103-354 assistance. If FmHA or its successor agency under Public Law 103-354 has reason to believe unauthorized assistance was received, but is unable to determine whether or not the assistance was in fact unauthorized, the case will be referred to the Regional Office of the General Counsel (OGC) or the National Office, as appropriate, for review and advice. In every case where it is known or believed by FmHA or its successor agency under Public Law 103-354 that the assistance was based on false information, investigation by the Office of the Inspector General (OIG) will be requested as provided for in FmHA or its successor agency under Public Law 103-354 Instruction 2012-B (available in any FmHA or its successor agency under Public Law 103-354 office). If OIG conducts an investigation, the actions outlined in § 1951.657 of this subpart will be deferred until the OIG investigation is completed and the report is received. The reason(s) for the unauthorized assistance being received by the recipient will be well documented in the case file, and will specifically state whether it was due to:

(a) Submission of inaccurate information by the recipient;

(b) Submission of false information by the recipient;

(c) Submission of inaccurate or false information by another party on the recipient's behalf such as a loan packager, developer, real estate broker, or